

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

In re	)	Chapter 11
	)	
Blackjewel, L.L.C., <i>et al.</i>	)	Case No. 19-30289
	)	
Debtors <sup>1</sup> ,	)	(Jointly Administered)
	)	
BLACKJEWEL, L.L.C. and	)	
REVELATION ENERGY, LLC,	)	
	)	
Plaintiffs,	)	Adv. Proceeding No. 3:20-ap-03012
	)	
v.	)	
	)	
LEXINGTON COAL COMPANY, LLC	)	
and JEFFERY A. HOOPS, SR.,	)	
	)	
Defendants.	)	

**MOTION FOR LEAVE TO FILE AMENDED  
ADVERSARY COMPLAINT, *INSTANTER***

Pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, Plaintiffs Revelation Energy, LLC and Blackjewel, L.L.C. (“Plaintiffs”) seek leave to amend their existing adversary complaint against Lexington Coal Company, LLC (“LCC”) in the form attached as Exhibit A to this Motion for Leave to Amend Adversary Complaint, *Instanter* (“Motion”). The proposed amended complaint (“Amended Complaint”) adds claims against Defendant LCC and adds Jeffery A. Hoops, Sr. (“Hoops”) as a defendant concerning certain related transactions and occurrences. Bringing these claims in the Amended Complaint rather than a separately filed action will promote

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<sup>1</sup> The Debtors in these Chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: Blackjewel, L.L.C. (0823); Blackjewel Holdings L.L.C. (4745); Revelation Energy Holdings, LLC (8795); Revelation Management Corporation (8908); Revelation Energy, LLC (4605); Dominion Coal Corporation (2957); Harold Keene Coal Co. LLC (6749); Vansant Coal Corporation (2785); Lone Mountain Processing, LLC (0457); Powell Mountain Energy, LLC (1024); and Cumberland River Coal LLC (2213). The headquarters for each of the Debtors is located at P.O. Box 1010, Scott Depot, West Virginia 25560.

efficiency and judicial economy. This case is still in the early stages, including because LCC's motion to withdraw the reference was only recently denied. No scheduling order has yet been entered and the Amended Complaint will not unfairly prejudice LCC. For these and the other reasons set forth more fully in the attached Memorandum in Support, Plaintiffs respectfully request that their Motion be granted. A proposed order granting the Motion and authorizing filing of the Amended Complaint is attached hereto as Exhibit B.

Dated: November 13, 2020

Respectfully submitted,

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	)	
LEXINGTON COAL COMPANY, LLC	)	
and JEFFERY A. HOOPS, SR.,	)	
	)	
Defendants.	)	

**MEMORANDUM IN SUPPORT OF MOTION FOR LEAVE TO FILE AMEND  
ADVERSARY COMPLAINT, *INSTANTER***

**I. Introduction.**

Plaintiffs' seek to amend their existing complaint to include additional claims against LCC, and assert related claims against Hoops, discovered during Plaintiffs' ongoing investigation of the extensive historical dealings between Hoops, LCC, and other parties. Plaintiffs' investigation has been slowed by the poor quality of Debtors' records, Plaintiffs' difficulty in obtaining appropriate Bankruptcy Rule 2004 discovery from various parties, the ongoing COVID-19 pandemic, and the demands of many other time sensitive issues in Debtors' bankruptcy cases. The basis for the additional claims against LCC and Hoops was not readily apparent at the time the initial complaint was filed. The alternative to amending the existing complaint would be for Plaintiffs to file a new action against LCC for the additional claims and a new action against Hoops related to matters that properly should be included in the action against LCC. Bringing those claims in the Amended

Complaint rather than in separate actions that likely would be joined or consolidated with this case will promote judicial economy and avoid unnecessarily duplicative actions. Accordingly, Plaintiffs' seek leave of Court to file the proposed Amended Complaint.

## **II. Law & Argument.**

Plaintiffs' Motion is appropriate under Rule 15 of the Federal Rules of Civil Procedure. Rule 15 establishes a permissive approach to requests to amend pleadings and provides that "[t]he court should freely give leave when justice so requires." Fed. R. Civ. P. 15(a)(2). The Fourth Circuit has repeatedly recognized that leave to amend should only be denied if "the amendment would be prejudicial to the opposing party, the moving party has acted in bad faith, or the amendment would be futile." *Equal Rights Ctr. v. Niles Bolton Assocs.*, 602 F.3d 597, 603 (4th Cir. 2010); *Moore v. Equitrans, Ltd. Partnership*, 818 Fed. App'x 212, 217-18 (4th Cir. 2020). None of those considerations is present in this case.

Based on the procedural posture of this adversary proceeding and applying the above standard, leave to amend should be granted. Plaintiffs' Motion is timely and made in good faith. Discovery has not yet commenced and no scheduling order has been entered. As a result, the proposed amendment will not cause any delay to the existing litigation. Granting leave will not prejudice LCC. The alternative to amendment would be for Plaintiffs' to file separate actions and the risk of unnecessarily duplicative actions would be more prejudicial than amendment of the existing complaint. The Amended Complaint asserts meritorious claims and would not be futile. Accordingly, Plaintiffs respectfully request that the Court grant leave to amend and enter an order permitting the filing of the Amended Complaint.

Dated: November 13, 2020

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I, Stephen D. Lerner, hereby certify that on this 18th day of September, 2020, the foregoing ***Motion for Leave to File Amended Adversary Complaint, Instante and Memorandum in Support*** was filed and served via the Court's CM/ECF system and via electronic mail upon the following:

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